

IN THE UNITED STATES ARMY
FIRST JUDICIAL CIRCUIT

UNITED STATES)

v.)

MANNING, Bradley E., PFC)
U.S. Army, (b) (6))
Headquarters and Headquarters Company,)
U.S. Army Garrison, Joint Base Myer-)
Henderson Hall, Fort Myer, VA 22211)

ORDER:
GOVERNMENT MOTION:
PROTECTIVE ORDER(S)

DATED: 24 April 2012

1. This Order applies when the Defense proposes to publicly release Defense Court filings or proposed filings.

2. A pleading is "filed" with the Court when it is identified as an exhibit on the record at an Article 39(a) session. Pleadings served on the opposing party that have not been identified on the record at an Article 39(a) session are "proposed filings".

3. This Order is issued IAW MRE 505(g) and (h), MRE 506(g) and (h), RCM 701(g) and RCM 806(d), and *Seattle Times v. Rhinehart*, 104 S.Ct. 2199 (1984). The Order provides procedures for the Government to request protective order(s) prior to any public release of Defense Court filings or proposed filings. The Court finds this Order necessary under the above authorities. The Government has provided the Defense both classified information and government information subject to protective order under MRE 505(g)(1) and MRE 506(g). This Court has issued a protective order for classified information provided to the Defense in discovery. The Defense accepted such discovery and agreed to comply with the protective orders. There have been two classified information spillage incidents to date in this case.

4. This Order supplements the Interim Order issued by the Court on 28 March 2012.

ORDER:

1. The Defense will notify the Government of each Defense Court filing or proposed filing intended for public release. Defense will provide the Government with the original filing and the redacted filing intended for public release.

2. Government motions for protective order will:

a. address each Defense Court filing or proposed Court filing individually and identify, with particularity, each portion of the filing to which the Government objects to public release and the legal basis for each objection to public release.

b. provide proposed findings of fact for the Court with respect to each portion of each filing to which the Government objects to public release.

3. Suspense Dates for Defense Court filings and proposed filings the Defense intends to publicly release. The Court is currently scheduling Article 39(a) sessions with the following schedule: 2 weeks to file motions; 2 weeks to file responses; 5 days to file replies.

a. NLT the **scheduled filing date for motions, responses, or reply** for each Article 39(a) session, the Defense shall provide the Government notice IAW paragraph (1) of this Order.

b. The Government shall provide the Court with information ordered in paragraph (2) of this Order NLT:

1. the **scheduled filing date for responses** for Defense motions;
2. the **scheduled filing date for replies** for Defense responses; and
3. **3 days** after filing of Defense replies.

The Court will grant motions for continuance for good cause.

4. The Defense will not publicly release any Defense Appellate Exhibit or proposed filing with the Court to which the Government objects until after the Government motion(s) for protective order are addressed at the next scheduled Article 39(a) session.

5. The Defense will not disclose any information known or believed to be subject to a claim of privilege under MRE 505 or MRE 506 without specific Court authorization. Prior to any disclosure of classified information, the Defense will provide notice under MRE 505(h) and follow the procedures under that rule.

6. Personal identifying information (PII) will be redacted from all Defense filings publicly released. PII includes personal addresses, telephone numbers, email addresses, first 5 digits of social security numbers, dates of birth, financial account numbers, and the names of minors.

7. To protect the safety of potential witnesses all persons who are not parties to the trial shall be referenced by initials of first and last name in any Defense filing publicly released.

So **ORDERED**: this 24th day of April 2012.



DENISE R. LIND
COL, JA
Chief Judge, 1st Judicial Circuit